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Sourdough & Co., Inc.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SOURDOUGH & CO., INC.

Plaintiff,

V.

WCSD, INC., a California corporation; GSD FOODS, INC., a California corporation; GURMINDER BHATIA, an individual; DAVINDER SINGH, an individual; POWERGLIDE HOLDINGS, LLC, a California limited liability company; KALDEEP UPPAL, an individual; KARNDEEP UPPAL, an individual; and SD-FOLSOM, INC., a California corporation; and DOES 1-25.

Defendants.

Case No.: 2:20-cv-01226-TLN-CKD

**STIPULATION AND ORDER TO
CONSOLIDATE CASES AND
MODIFY INITIAL PRETRIAL
SCHEDULING ORDER**

WCSD Inc. dba West Coast Sourdough
100 Pine Street
San Francisco, CA 94111.

Plaintiff,

VS.

WESTCOASTSOURDOUGH.COM, a domain name subject to domain name authorities located in this judicial district and JOHN DOEES 1 through 5, inclusive,
Defendants

AND ALL RELATED COUNTERCLAIMS

Case No.: 2:20-cv-01538-TLN-CKD

1 INTRODUCTION

2 The parties, through their respective undersigned counsel of record have met and conferred
3 concerning the most efficient and economical way to prepare these cases for trial and dispositive
4 motions prior to trial. The parties jointly represent to the Court the following good cause for
5 consolidation.

6 1. The claims, defenses and counterclaims underlying this action involve common
7 questions of law and fact, particularly with respect to trademark validity and likely confusion. The
8 prior action, 2:20-cv-01226 ('226 action) involves disputed issues of trademark validity and there are
9 claims and counterclaims seeking trademark cancellation that would have a direct bearing on
10 ownership of the domain name, at issue in Case No. 2:20-cv-01538 ('538 action).

11 2. It would economize both judicial resources as well as those of the parties herein to
12 join these matters for all purposes, including discovery and trial.

13 3. Consolidation would also promote the convenience of the parties and other witnesses
14 by ensuring that overlapping witnesses in these cases need sit for deposition or trial testimony only
15 once.

16 4. If these cases are tried separately to different juries, there is also the potential for
17 inconsistent and conflicting findings of fact; to avoid this, one jury should decide all of the issues
18 underlying trademark validity, ownership and likely confusion or other infringements.

19 5. Therefore, to expedite, economize and streamline these matters before the Court, and
20 pursuant to FRCP Rule 42(a)(1) the parties jointly represent that consolidation is appropriate in these
21 matters and respectfully ask that the Court order the matters consolidated for all purposes and
22 subject the following schedule.

23 ANALYSIS

24 Under Rule 42 of the Federal Rules of Civil Procedure, a court may consolidate actions
25 when they involve "common questions of law or fact." The decision whether to consolidate is
26 within the court's discretion. *Investors Research Co. v. U.S. Dist. Court*, 877 F.2d 777 (9th Cir.
27 1989). In determining whether to consolidate, the court should consider the interests of judicial
28 convenience against the potential for delay, confusion and prejudice. *Rainwater v. McGinniss*, No.

1 CIV S-10-1727 GGH P, 2011 WL 5041233, at *1 (E.D. Cal. Oct. 24, 2011). The court may also
2 consider “the risk of inconsistent adjudications of common factual and legal issues.”” *Ellison*
3 *Framing Inc. v. Zurich Am. Ins. Co.*, Nos. Civ. S-11-0122 LKK/DAD, Civ. S-13-1761 JAM/AC,
4 2013 WL 6499058, at *3 (E.D. Cal. Dec. 11, 2013) (quoting *Arnold v. E. Air Lines, Inc.*, 681 F.2d
5 186, 193 (4th Cir. 1982)).

6 **MODIFICATIONS TO INITIAL PRETRIAL SCHEDULING ORDER**

7 The parties jointly request that the Initial Scheduling Order (“ISO”) be modified as proposed
8 below. Dates not provided for below would remain as set in the ISO.

9 **I. DISCOVERY**

10 The parties request that all discovery, with the exception of expert discovery, shall be
11 completed no later **November 30, 2021**. In this context, "completed" means that all discovery shall
12 have been conducted so that all depositions have been taken and any disputes relative to discovery
13 shall have been resolved by appropriate order if necessary, and where discovery has been ordered,
14 the order has been obeyed. All motions to compel discovery must be noticed on the magistrate
15 judge's calendar in accordance with the Local Rules.

16 **II. DISCLOSURE OF EXPERT WITNESSES**

17 The parties request that the date for designation of expert witness be **January 31, 2022**.
18 All counsel are to designate in writing, file with the Court, and serve upon all other parties the
19 name, address, and area of expertise of each expert that they propose to tender at trial not later than
20 this date. The designation shall be accompanied by a written report prepared and signed by the
21 witness. The report shall comply with Federal Rule of Civil Procedure 26(a)(2)(B).

22 The parties request that the date for supplemental designation of expert witnesses be
23 **February 28, 2022**. Any party may designate a supplemental list of expert witnesses who will
24 express an opinion on a subject covered by an expert designated by an adverse party. The right to
25 designate a supplemental expert for rebuttal purposes only shall apply to a party who has not
26 previously disclosed an expert witness on the date set for expert disclosure by this Order.

III. SUPPLEMENTAL DISCOVERY

Pursuant to Federal Rule of Civil Procedure 26(e), the parties shall exchange any supplemental disclosures and responses (including expert supplemental materials) no later than thirty (30) days prior to the dispositive motion hearing date. Any supplemental disclosures and responses necessary after said date will require leave of Court good cause having been shown.

Except as noted above, all other dates identified in this Court's Initial Scheduling Order would remain unchanged.

DATED: March 30, 2021

PETERSON WATTS LAW GROUP, LLP

By: _____ /s/ GLENN W. PETERSON
GLENN W. PETERSON

Attorneys for Plaintiff/Counter-Defendant

DATED: March 30, 2021

HUGHEY PHILLIPS

By: _____ /s/ GALEN M. GENTRY
GALEN M. GENTRY

Attorneys for Defendants and Cross-Complainant

ORDER UPON STIPULATION:

Pursuant to the parties' joint Stipulation to Consolidate in this matter, and good cause appearing, the Court now orders these two cases be consolidated under Case No. 2:20-cv-01226-TLN-CKD and rescheduled as noted above.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: March 31, 2021


Troy L. Nunley
United States District Judge